

Louisiana Property and Casualty  
Insurance Commission  
Louisiana Department of Insurance  
P.O. Box 94214  
Baton Rouge, LA 70802-9214  
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Louisiana Property and Casualty  
Insurance Commission  
Monthly Report  
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Summary - 2003 Regular Legislative Session

The 2003 Regular Session convened on March 31st, and the final adjournment was on June 23rd. The following property and casualty insurance bills were considered and approved by the Legislature. House Bill 721 (Act 351), House Bill 713 (Act 1238), and House Bill 1788 (Act 1133) represent recommendations presented to the Legislature by the Louisiana Property and Casualty Insurance Commission.

**House Bill 721 (Act 351)** by Senators Hainkel and Cravins provides for a flex-band rating system, which allows property and casualty insurers to adjust rates once during any 12-month period without the prior approval from the Louisiana Insurance Rating Commission. This rate adjustment may be up to 10 percent above or 10 percent below the rate in effect. This act also allows for a 30-day file and use system as long as the rate filing falls within the limitations. The Department of Insurance Actuarial Division can rule against the rate increases if not justified. The insurance companies would then have the right to appeal the decision before the Louisiana Insurance Rating Commission.

**House Bill 713 (Act 1238)** by Representative Hutter amends the present seatbelt law to include residents and non-residents transporting children 13 years of age and younger, and requires specific guidelines according to age and weight for the child restraint systems. Failure to secure a child in any type of restraint is a primary offense, but failure to secure a child in an age or size-appropriate restraint is a secondary offense.

**House Bill 1788 (Act 1133)** by Representative Morrish and Senator Dardenne creates the Louisiana Citizens Property Insurance Corporation to operate the FAIR and Coastal Plans. This act sets up this non-profit corporation with a 15-member board of directors as the corporation's governing body. The act establishes the guidelines the corporation will follow to manage the FAIR and Coastal plans, and changes the financing mechanism of the plans to enable the corporation's income to be exempt from federal income taxation. The corporation will be able to build tax-free reserves for catastrophic events, and issue tax-exempt bonds. The corporation will operate these insurance plans for applicants unable to get insurance in a voluntary market. However, the average rates must be at least 10 percent above the competitive voluntary market rates in each parish in which the

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The Louisiana Property and Casualty Insurance Commission was created by the enactment of R.S. 22:15 in the 2001Regular Session of the Louisiana Legislature to review and examine the availability and affordability of property and casualty insurance in the state of Louisiana. The commission will also undertake a comprehensive study and provide oversight and enforcement recommendations of the effectiveness of law enforcement and implementation of programs aimed at enforcement throughout the state of those laws and programs which affect property and casualty insurance rates.

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application is sought. This legislation also intends for the Louisiana Citizens Property Insurance Corporation to work towards depopulating of the FAIR and Coastal plans.

**House Bill 767 (Act 590)** by Representative Bowler amends and changes the makeup of the Louisiana Property and Casualty Insurance Commission. Added to the commission are representatives from each of the following associations: the Louisiana Association of Fire and Casualty Companies, the National Association of Independent Insurers, and the Alliance of American Insurers. It also deletes the individual representative for the Superintendent of State Police, the president of the Louisiana Association of Chiefs of Police, and the president of the Louisiana Sheriff’s Association. One representative of law enforcement will be selected jointly by those groups. The act also designates the ad hoc committees memberships.

**House Bill 1448 (Act 1256)** by Representatives Hebert, Erdey, Bowler, Capella, Morrish, Gary Smith, Baldone, Glover, Scalise, and Walsworth limits the use of credit scoring for personal insurance. The act regulates the use of credit information for personal insurance, including private automobile, homeowners, motorcycle, mobile homes, boat, and recreational vehicles. Noncommercial dwelling fire insurance policies are also included. This act sets the guidelines an insurance company must follow to use credit information on an applicant.

**Senate Bill 71 (Act 533)** by Senator Dupre establishes penalties for drivers who refuse to submit to a chemical test after involvement in a fatal crash or a crash resulting in serious injury that involves alcohol. Such crashes may involve a motor vehicle, aircraft, watercraft, or other means of conveyance. If a person refuses to submit to the test, he shall be subject to the penalties of 1st offense DWI.

**Senate Bill 72 (Act 800)** by Senator Dupre prohibits mail order purchasing of an ignition interlock device required as a condition of probation for a DWI offense. This act also defines the exact conditions for installation of the device.

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Louisiana Property and Casualty Insurance Commission Members		
Commissioner Robert Wooley		Tom O’Neal
Jeff Albright	Representative Shirley Bowler	Theodore “Ted” Haik, Jr.
Cecile Bush	Representative Dan Morrish	Aubrey T. Temple, Jr.
Col. Jim Champagne	Terry Lisotta	Dan Boudreaux
Senator Donald R. Cravins	Cassandra Simms	Lt. Col. John LeBlanc
Senator Max Tatum Malone	Richard Clements	Chad Brown
Rodney Braxton	Sheriff Greg Champagne	Earl Taylor

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**Senate Bill 320 (Act 752)** by Senator Chaisson changes certain circumstances regarding DWI from being considered elements of crime to being considered affirmative defense if the circumstance is lacking. This act allows for an affirmative defense under certain conditions pertaining to driving under the influence of alcohol and drugs that are not considered controlled dangerous substances. When the label or manufacturer’s packaging of a prescription drug does not contain a warning about combining with alcohol, this shall be an affirmative defense to any charges. In the new law, labeling is eliminated as a required element.

**Senate Bill 143 (Act 535)** by Senator Dupre pertains to the increased penalties of 1st or 2nd offense DWI when the offender has a BAC of 0.20 or more. It also deals with terms for a restricted driver’s license and installation of an ignition interlock device during certain periods of suspension.

**Senate Bill 767 (Act 543)** by Senator Chaisson makes it a crime to refuse chemical testing after a 3rd arrest for a DWI offense. The penalty is a fine of not less than \$300 and not more than \$1,000. The act includes guidelines for sentencing, community service and probation. The offender must be informed of his rights and informed that this 3rd refusal is a crime. A law enforcement officer must also state the resulting penalties.

## Announcements:

The Southeast Louisiana (SELA) DWI Task Force meeting will be held on Friday, July 18th, at Louisiana State Police Troop B in Kenner from 10:30 to 11:30 AM.

The next meeting of the Louisiana Property and Casualty Insurance Commission will be held on Monday, August 11th at 2:00 PM in the Hearing Room of the Department of Insurance, Poydras Building.